

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LOUIS MCCRAE,

Petitioner,

- against -

DALE A. ARTUS

Respondent.

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ROSLYNN R. MAUSKOPF, United States District Judge.

MEMORANDUM AND ORDER
10-CV-2988 (RRM)

Petitioner *pro se* Louis McCrae brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner seeks relief from his conviction in the Supreme Court of the State of New York, Kings County, for one count of Sexual Abuse in the First Degree under N.Y. Penal Law § 130.65(3) and one count of Endangering the Welfare of a Child under N.Y. Penal Law § 260.10(11). He was sentenced to concurrent prison terms of seven years and one year on his convictions for the sexual abuse and endangering the welfare of a child, respectively, together with a term of post-release supervision of three years.

In a Memorandum and Order dated August 31, 2012 (Doc. No. 9), the Court found the instant petition to include both exhausted and unexhausted claims. As a result, and for the reasons discussed therein, the Court directed petitioner “to decide whether he seeks dismissal of the entire petition without prejudice, which would create no bar to the filing of a successive petition, or whether he seeks to excise his unexhausted claims, and have the Court decide those that are properly before it.” The Court specifically ordered that “the petition will be dismissed without prejudice, unless within thirty (30) days of the date of this Memorandum and Order, petitioner files a letter clearly asserting that he wishes to strike his unexhausted claims and proceed solely with his exhausted claims.”

As noted on the docket by the Clerk of Court, the Court's Memorandum and Order was mailed to petitioner on September 4, 2012. To date, petitioner has not responded to the Memorandum and Order, or communicated with the Court in any way.

As such, and for the reasons set forth in the Court's August 31 Memorandum and Order, the petition is DISMISSED WITHOUT PREJUDICE.

The Clerk of Court is directed to send a copy of this Memorandum and Order to Petitioner.

SO ORDERED.

Dated: Brooklyn, New York
November 5, 2012

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge